



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2017-0435; FRL- 9973-23-Region 6]

**Approval and Promulgation of Air Quality Implementation Plans; Arkansas;
Infrastructure State Implementation Plan Requirements for the National Ambient
Air Quality Standards**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of Arkansas to address the requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA or Act) for the 2006 and 2012 fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS), 2008 lead (Pb) NAAQS, 2008 ozone (O₃) NAAQS, 2010 nitrogen dioxide (NO₂) NAAQS, and the 2010 sulfur dioxide (SO₂) NAAQS. Under CAA sections 110(a)(1) and 110(a)(2), each state is required to submit a SIP that provides for the implementation, maintenance, and enforcement of a revised primary or secondary NAAQS. CAA sections 110(a)(1) and (2) require each state to make a new SIP submission within three years after EPA promulgates a new or revised NAAQS for approval into the existing federally-approved SIP to assure that the SIP meets the applicable requirements for such new and revised NAAQS. This type of SIP submission is commonly referred to as an “infrastructure SIP or “i-SIP.”

DATES: This final rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2017-0435. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Nevine Salem, (214) 665-7222, salem.nevine@epa.gov. To inspect the hard copy materials, please schedule an appointment with her or Bill Deese at (214) 665-7253.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The background for this action is discussed in detail in our November 20, 2017 proposal (82 FR 55065). In that action, we proposed to approve the Arkansas i-SIP submittal dated March 24, 2017 to address the requirements of sections 110(a)(1) and (2) of the Act for the 2006 and 2012 PM_{2.5} NAAQS, 2008 lead (Pb) NAAQS, 2008 ozone (O₃) NAAQS, 2010 nitrogen dioxide (NO₂) NAAQS, and the 2010 sulfur dioxide (SO₂)

NAAQS. Under CAA sections 110(a)(1) and 110(a)(2), each state is required to submit a SIP that provides for the implementation, maintenance, and enforcement of a revised primary or secondary NAAQS. CAA sections 110(a)(1) and (2) require each state to make a new SIP submission within three years after EPA promulgates a new or revised NAAQS for approval into the existing federally-approved SIP to assure that the SIP meets the applicable requirements for such new and revised NAAQS.

We received an anonymous public comment on December 18, 2017 on the proposed rulemaking action. The comment is posted to the docket (EPA-R06-OAR-2017-0435). The commenter raised concerns about the accuracy of agricultural and wild fires emissions inventory. Such comment is irrelevant and is outside the scope of this specific rule making action.

II. Final Action

As detailed in the proposal action, EPA is approving the majority of the March 24, 2017, Arkansas i-SIP submittal, which addresses the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2006 PM_{2.5}, 2008 Pb, 2008 O₃, 2010 SO₂, 2010 NO₂, and 2012 PM_{2.5} NAAQS. Table 1 outlines the specific actions¹ we are approving in this final rulemaking.

Table 1 - Final actions on the Arkansas Infrastructure SIP submittal for various NAAQS

¹ Note that regarding CAA 110(D)(i)(II) Visibility Protection – (“prong 4”) for the 2006 PM_{2.5}, EPA previously proposed disapproval at 80 FR 38419 (July 6, 2015) for an earlier SIP submittal dated September 21, 2009. However, in the State’s March 24, 2017 submittal, Arkansas submitted revisions to address CAA 110(D)(i)(II) (“prong 4”) for the 2006 PM_{2.5} that supersede the September 21, 2009 submittal. In Table-1 below, we are making an administrative correction to the table as was originally proposed. We are making an administrative correction to note a minor change from “No submittal” to “No action” for the 2006 PM_{2.5} (“prong 4”). We will address the 2006 PM_{2.5} NAAQS 110(a)(2)(D)(i)(II)(“prong 4”) element in a future rule making.

Key to Table 1: Final actions on AR infrastructure SIP submittals for various NAAQS

Element	2006 PM _{2.5}	2008 Pb	2008 Ozone	2010 NO ₂	2010 SO ₂	2012 PM _{2.5}
(A): Emission limits and other control measures	A*	A	A	A	A	A
(B): Ambient air quality monitoring and data system	A*	A	A	A	A	A
(C)(i): Enforcement of SIP measures	A*	A	A	A	A	A
(C)(ii): PSD program for major sources and major modifications	A*	A	A	A	A	A
(C)(iii): Permitting program for minor sources and minor modifications	A*	A	A	A	A	A
(D)(i)(I): Contribute to nonattainment/interfere with maintenance of NAAQS (prongs 1 and 2)	A*	A	*No submittal	A	No action	No action
(D)(i)(II): PSD (requirement 3)	A*	A	A	A	A	A
(D)(i)(II): Visibility Protection (requirement 4)	No action	A	No action	No action	No action	No action
(D)(ii): Interstate and International Pollution Abatement	A	A	A	A	A	A
(E)(i): Adequate resources	A*	A	A	A	A	A
(E)(ii): State boards	A*	A	A	A	A	A
(E)(iii): Necessary assurances with respect to local agencies	A*	A	A	A	A	A
(F): Stationary source monitoring system	A*	A	A	A	A	A
(G): Emergency power	A*	A	A	A	A	A
(H): Future SIP revisions	A*	A	A	A	A	A
(I): Nonattainment area plan or plan revisions under part D	+	+	+	+	+	+
(J)(i): Consultation with government officials	A*	A	A	A	A	A
(J)(ii): Public notification	A*	A	A	A	A	A
(J)(iii): PSD	A*	A	A	A	A	A
(J)(iv): Visibility protection	+	+	+	+	+	+
(K): Air quality modeling and data	A*	A	A	A	A	A
(L): Permitting fees	A*	A	A	A	A	A
(M): Consultation and participation by affected local entities	A*	A	A	A	A	A

A- Approve

A* Previously approved for an earlier submittal.

+ Not germane to infrastructure SIPs

No action- EPA is taking no action on these infrastructure requirements in this rulemaking. EPA may address in separate future rulemaking action(s).

*No submittal*FIP in place.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C.

7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act.

Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL**

REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Interstate transport of pollution, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: February 7, 2018.

Anne Idsal,
Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart E – Arkansas

2. In § 52.170, in paragraph (e), the third table titled “EPA-Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Arkansas SIP” is amended by adding the following entries at the end:

§ 52.170 Identification of plan.

* * * * *

(e) * * *

**EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN
THE ARKANSAS SIP**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
* * * * *				
Infrastructure for the 2006 PM _{2.5} NAAQS	Statewide	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	Approval for 110(a)(2)(D)(ii).
Infrastructure for the 2008 Pb NAAQS	Statewide	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	Approval for 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L) and (M).
Infrastructure for the 2008 O ₃ NAAQS	Statewide	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	Approval for 110(a)(2)(A), (B), (C), (D)(i)(portions pertaining and PSD), (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).
Infrastructure for the 2010 NO ₂ NAAQS	Statewide	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	Approval for 110(a)(2)(A), (B), (C), (D)(i)(portion pertaining to nonattainment interference with maintenance and PSD), (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).

Infrastructure for the 2010 SO ₂ NAAQS	Statewide	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	Approval for 110(a)(2)(A), (B), (C), (D)(i)(portion pertaining to PSD), (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).
Infrastructure for the 2012 PM _{2.5} NAAQS	Statewide	3/24/2017	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	Approval for 110(a)(2)(A), (B), (C), (D)(i)(portion pertaining to PSD), (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).